

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

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Kimberly Hoffman,

Plaintiff,

v.

Bluestem Brands, Inc. d/b/a Fingerhut; and  
DOES 1-10, inclusive,

Defendants.

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: Civil Action No.: \_\_\_\_\_  
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**COMPLAINT**

Plaintiff, Kimberly Hoffman, says by way of Complaint against Defendants,  
Bluestem Brands, Inc. d/b/a Fingerhut and DOES 1-10, inclusive, as follows:

**JURISDICTION**

1. This action arises out of Defendants' repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, et seq. (the "TCPA").
2. Venue is proper in the U.S. District Court for the District of New Jersey pursuant to 28 U.S.C. § 1391(b), as Defendants transact business in the State of New Jersey.

**PARTIES**

3. The Plaintiff, Kimberly Hoffman ("Plaintiff"), is an adult individual residing in Collingswood, New Jersey, and is a "person" as defined by 47 U.S.C. § 153(39).
4. Defendant Bluestem Brands, Inc. d/b/a Fingerhut ("Fingerhut"), is a Delaware business entity with an address of 7075 Flying Cloud Drive, Eden Prairie, Minnesota 55344, and is a "person" as defined by 47 U.S.C. § 153(39).

5. Does 1-10 (the “Agents”) are individual collectors employed by Fingerhut and whose identities are currently unknown to the Plaintiff. One or more of the Agents may be joined as parties once their identities are disclosed through discovery.

6. Fingerhut at all times acted by and through one or more of the Agents.

### **FACTS**

7. Within the last year, Fingerhut started calling Plaintiff’s cellular telephone, number 856-xxx-7955, in an attempt to collect a consumer debt allegedly owed by Plaintiff.

8. At all times mentioned herein, Fingerhut contacted Plaintiff using an automated telephone dialer system (“ATDS” or “predictive dialer”) and/or by using an artificial or prerecorded voice.

9. When Plaintiff answered the calls from Fingerhut, she heard a prerecorded message instructing Plaintiff to hold for the next available representative.

10. During a live conversation in mid October 2016, Plaintiff demanded that all calls to her cease immediately.

11. Nonetheless, Fingerhut continued to place automated calls to Plaintiff’s cellular telephone.

### **COUNT I**

#### **VIOLATIONS OF THE TCPA – 47 U.S.C. § 227, ET SEQ.**

12. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

13. At all times mentioned herein and within the last year, Defendants called Plaintiff on her cellular telephone using an ATDS or predictive dialer and/or by using a prerecorded or artificial voice.

14. Defendant continued to place automated calls to Plaintiff's cellular telephone after being directed by Plaintiff to cease calling and knowing there was no consent to continue the calls. As such, each call placed to Plaintiff was made in knowing and/or willful violation of the TCPA, and subject to treble damages pursuant to 47 U.S.C. § 227(b)(3)(C).

15. The telephone number called by Defendant was and is assigned to a cellular telephone service for which Plaintiff incurs charges for incoming calls pursuant to 47 U.S.C. § 227(b)(1).

16. Plaintiff was annoyed, harassed and inconvenienced by Defendants' continued calls.

17. The calls from Defendants to Plaintiff were not placed for "emergency purposes" as defined by 47 U.S.C. § 227(b)(1)(A)(i).

18. Each of the aforementioned calls made by Defendants constitutes a violation of the TCPA.

19. Plaintiff is entitled to an award of \$500.00 in statutory damages for each call placed in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

20. As a result of each call made in knowing and/or willful violation of the TCPA, Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

#### **PRAYER FOR RELIEF**

**WHEREFORE**, the Plaintiff prays that judgment be entered against Defendants:

- A. Statutory damages of \$500.00 for each violation determined to be negligent pursuant to 47 U.S.C. § 227(b)(3)(B);

B. Treble damages for each violation determined to be willful and/or knowing pursuant to 47 U.S.C. § 227(b)(3)(C);

C. Such other and further relief as may be just and proper.

**TRIAL BY JURY DEMANDED ON ALL COUNTS**

Dated: February 17, 2017

Respectfully submitted,

By: /s/ Sofia Balile

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